

Ocean Energy Management, Interior

§ 556.43

(1) From May 1 through October 31; or

(2) From November 1 through April 30, respectively.

§ 556.41 Joint bidding requirements.

(a) Any person who submits a joint bid for any oil and gas lease during a 6-month bidding period, and who was chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products, shall have filed under oath with the Director, a Statement of Production of crude oil, natural gas and liquefied petroleum products, hereinafter referred to as a Statement of Production, no later than 45 days prior to the commencement of the applicable 6-month bidding period of May 1 through October 31, and November 1 through April 30. Statements of Production shall be submitted to the Director, BOEM (Attention: Offshore Leasing Management Division), Washington, DC 20240. The Statement of Production shall indicate that the person was chargeable, in accordance with § 556.43 of this part, with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products for the prior production period. The Director shall publish semi-annually in the FEDERAL REGISTER a “List of Restricted Joint Bidders” to be effective immediately upon publication and to continue in force and effect until a subsequent list is published. The “List of Restricted Joint Bidders” shall consist of those persons, who in the judgment of the Director, based on information available to him, including, but not limited to, sworn Statements of Production, are chargeable under § 556.43 of this part with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products for the prior production period.

(b) When a person is placed on the List of Restricted Joint Bidders the Director shall serve that person either personally or by certified mail, return receipt requested, with a copy of the Director’s Order placing that person on the List of Restricted Joint Bidders. Any appeal from that Order or from an

adverse effect of that Order shall be made in accordance with the provisions of 43 CFR part 4.

(c) The submission of a Statement of Production or of a detailed Report of Production under § 556.46(g) of this part which misrepresents the chargeable production of the reporting person shall constitute failure to comply with these regulations and any lease awarded in reliance on that Statement or Report of Production may be canceled, pursuant to section 8(o) of the Act and regulations issued there under as having been obtained by fraud or misrepresentation.

(d) The Secretary may exempt a person from the provisions of §§ 556.41(a), 556.44, 556.46(g) and 556.62(b) of this part if it is found, on the record, after an opportunity for an agency hearing, that lands being offered have extremely high cost exploration and development problems and that exploration and development will not occur on such lands unless the exemption is granted.

§ 556.43 Chargeability for production.

(a) As used in this section the following definitions shall control:

(1) *Person* means a natural person or company.

(2) *Company* means a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any group of persons whether incorporated or not; it also means any receiver, trustee in bankruptcy, or similar official acting for such a company.

(3) *Subsidiary* means a company 50 percent or more of whose stock or other interest having power to vote for the election of directors, trustees, or other similar controlling body of the company is directly or indirectly owned, controlled, or held with the power to vote by another company; a subsidiary shall be deemed a subsidiary of the other company owning, controlling, or holding 50 percent or more of the stock or other voting interest.

(4) *Security or securities* means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, pre-organization certificate or subscription, transferable

share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.

(b) A person filing a Statement of Production under § 556.41 of this part shall be charged with the following production during the applicable prior production period:

(1) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products which it owned worldwide;

(2) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by every subsidiary of the reporting person;

(3) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by any person or persons of which the reporting person is a subsidiary; and

(4) The average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by any subsidiary, other than the reporting person, of any person or persons of which the reporting person is a subsidiary.

(c) A person filing a Statement of Production shall be charged with, in addition to the production chargeable under paragraph (b) of this section, but not in duplication thereof, its proportionate share of the average daily production in barrels of crude oil, natural gas, and liquefied petroleum products owned worldwide by every person:

(1) Which has an interest in the reporting person, and

(2) In which the reporting person has an interest, whether the interest referred to in paragraphs (c)(1) and (2) of this section is by virtue of ownership of securities or other evidence of ownership, or by participation in any contract, agreement, or understanding respecting the control of any person or of any person's production of crude oil, natural gas, or liquefied petroleum

products, equal to said interest. As used in paragraph (c) of this section "interest" means an interest of at least 5 percent of the ownership or control of a person.

(d) All measurements of crude oil and liquefied petroleum products under this section shall be at 60 °F.

(e)(1) For purposes of computing production of natural gas under § 556.41 of this part, chargeability under this section, and reporting under § 556.46(g) of this part, 5,626 cubic feet of natural gas at 14.73 pounds per square inch (msl) shall equal one barrel.

(2) For purposes of computing production of liquefied petroleum products under § 556.41 of this part, chargeability under § 556.46(g) of this part, 1,454 barrels of natural gas liquids at 60 °F shall equal one barrel of crude oil.

§ 556.44 Bids disqualified.

The following bids for any oil and gas lease shall be disqualified and rejected in their entirety:

(a) A joint bid submitted by 2 or more persons who are on the effective List of Restricted Joint Bidders; or

(b)(1) A joint bid submitted by two or more persons when 1 or more of those persons is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas and liquefied petroleum products and has not filed a Statement of Production as required by § 556.41 of this part for the applicable 6-month bidding period, or

(2) Any of those persons have failed or refused to file a detailed report of production when required to do so under § 556.46(g) of this part, or

(c) A single or joint bid submitted pursuant to an agreement (whether written or oral, formal or informal, entered into or arranged prior to or simultaneously with the submission of such single or joint bid, or prior to or simultaneously with the award of the bid upon the tract) which provides:

(1) For the assignment, transfer, sale, or other conveyance of less than a 100 percent interest in the entire tract on which the bid is submitted, by a person or persons on the List of Restricted Joint Bidders, effective on the date of